

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL THOMAS,

Plaintiff,

vs.

No.

FRIEDMAN RECYCLING  
OF ALBUQUERQUE, EL PASO  
STAFFING SERVICES, and  
MARIA THERESA NAVARRETTE,

Defendants.

**NOTICE OF REMOVAL TO THE UNITED STATES  
DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO**

COMES NOW the Defendant Friedman Recycling of Albuquerque, LLC (hereafter “Friedman”), by and through its counsel of record, Butt Thornton & Baehr PC (Agnes Fuentevilla Padilla), and hereby removes this lawsuit to the United States District Court for the District of New Mexico. As grounds therefore, the Defendant states as follows:

1. Plaintiff filed this civil action on June 21, 2018, against the Defendants in the Second Judicial District Court, County of Bernalillo, State of New Mexico, Case No. D-202-CV-2018-04685. Plaintiff’s Complaint for Wrongful and Retaliatory Discharge (“Complaint”), named as Defendants Friedman Recycling of Albuquerque, El Paso Staffing Services, and Maria Theresa Navarrette.

2. Pursuant to D.N.M. LR-Civ. 81.1(a), a copy of the Original Complaint, along with copies of all records and proceedings are attached hereto as Exhibit A.

3. Plaintiff alleges in his Complaint that he is a resident of Bernalillo County, New Mexico. *See Complaint*, ¶1.

4. Defendant Friedman Recycling of Albuquerque is a foreign limited liability company, whose sole members are David and Morris Friedman, both of whom are citizens of Arizona.

5. Defendant Friedman Recycling of Albuquerque was served with a copy of the Complaint on August 23, 2018 via email.

6. The Complaint also names as a Defendant Maria Theresa Navarrete, who upon information and belief, resides in and is a citizen of the state of Texas. The Complaint further names as a Defendant El Paso Staffing. According to the Texas Secretary of State website, El Paso Staffing is Domestic Limited Liability Company (LLC) with a sole member, Maria Theresa Navarrete. El Paso Staffing Services, LLC is in El Paso, Texas and as stated above, Maria Theresa Navarrete is also a citizen of Texas, according to the Secretary of State website.

7. A limited liability company has the citizenship of each of its members. *See Siloam Springs Hotel, LLC v Century Sur. Co.*, 781 F.3d 1233, 1234 (10<sup>th</sup> Cir. 2015); *Zufelt v. Isuzu Motors America LLC*, 727 F.Supp.2d 1117 (D.N.M. 2009). As detailed above, none of the members of Friedman or El Paso Staffing is a citizen of the State of New Mexico. Therefore, none of the named Defendant is a citizen of the State of New Mexico for purposes of diversity citizenship under 28 U.S.C. §1332.

8. Therefore, there is complete diversity between the Plaintiff and the Defendants.

9. Defendants Navarrete and El Paso Staffing consent to removal. See Notice of Consent to Removal, attached hereto as Exhibit B.

10. The Complaint, pursuant to the New Mexico Rules of Civil Procedure, contains no allegation for damages in a specific monetary amount. The Complaint, however, alleges that the Defendant is responsible for compensatory damages, statutory and liquidated damages, including

back and front pay, damages for emotional distress, punitive damages, injunctive and other equitable relief, including but not limited to reinstatement, pre and post judgment interest, attorney's fees, and costs.

11. Counsel for the Defendant, Agnes Fuentevilla Padilla, spoke with counsel for Plaintiff, Wayne Suggett, and confirmed that Plaintiff deems the value of the case to exceed \$75,000.00. Based on Plaintiff's Complaint and Plaintiff's counsel's assertions, the amount in controversy in this matter exceeds \$75,000 in value exclusive of interest and costs.

12. The United States District Court, therefore, has original jurisdiction over the Summons and Complaint under 28 U.S.C. §1332(a) as the matter in controversy exceeds \$75,000.00 in value, exclusive of interest and costs, and this action is between citizens of different states.

13. Diversity jurisdiction is believed to have existed from the time the Plaintiff filed her Amended Complaint of this action in state court through the time of the filing of this Petition. 28 U.S.C. §1446(b)(3).

14. Because this Court has original jurisdiction over this action under 28 U.S.C. §1332(a), this action is removable pursuant to 28 U.S.C. §§1441(a).

15. The state court in which this action was commenced is within this Court's district. Venue is therefore proper under 28 U.S.C. §§111 and 1441(a).

16. The Notice of Removal was filed with this Court within thirty (30) days after the Defendant was served with Plaintiff's Amended Complaint on August 23, 2018 via email.

17. Defendant, immediately upon the filing of this Notice of Removal, gave written notice of the filing to Plaintiff as required by 28 U.S.C. §1446(d) and filed a copy of this Notice

of Removal with the Clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico, the Court from which this action is removed.

WHEREFORE, Defendant Friedman Recycling of Albuquerque respectfully requests that the above-entitled action remain in this United States District Court for the District of New Mexico.

Respectfully Submitted,

BUTT THORNTON & BAEHR PC

/s/ Agnes Fuentevilla Padilla  
Agnes Fuentevilla Padilla  
*Attorneys for Defendant*  
*Friedman Recycling of Albuquerque*  
P.O. Box 3170  
Albuquerque, NM 87190-3170  
(505) 884-0777  
[afpadilla@btblaw.com](mailto:afpadilla@btblaw.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 24<sup>th</sup> day of September 2018, a copy of the foregoing was electronically filed through the Court's electronic filing system (CM/ECF), which caused the following parties or counsel of record to be served by electronic means, as more fully reflected in the Notice of Electronic Filing:

Wayne R. Suggett, Esq.  
201 Third Street NW, Suite 1720  
Albuquerque, New Mexico 87102  
[wayne@suggettlaw.com](mailto:wayne@suggettlaw.com)  
*Attorney for Plaintiff*

/s/ Agnes Fuentevilla Padilla  
Agnes Fuentevilla Padilla